

JUL 14 2006

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DATE:

*July 14, 2006*

PTO IDENTIFIER: Application Number 10/575,749

Patent Number

Inventor: Germano Emiliani et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

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Attorney Dkt. #: 05581-00145-US

PAGES (Including Cover Sheet): 10

## CONTENTS:

Transmittal of International Preliminary Report on Patentability (1 page)  
International Preliminary Report on Patentability (7 pages)  
Certificate of Transmission (1 page)

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Application No. (if known): 10/575,749

Attorney Docket No.: 05581-00145-US

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Transmittal of International Preliminary Report on Patentability (1 page)  
International Preliminary Report on Patentability (7 pages)

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NO. 2245 P. 3

Application No.: 10/575,749

JUL 14 2006

Docket No.: 05581-00145-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Germano Emiliani et al.

Application No.: 10/575,749

Confirmation No.: N/A

Filed: April 12, 2006

Art Unit: N/A

For: TRANSPARENT AND COLOURED CAST  
FILM FOR IN MOULD LABELLING  
APPLICATION

Examiner: Not Yet Assigned

**TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON  
PATENTABILITY**


MS PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits herewith the International Preliminary Report On Patentability issued in the corresponding international application. The PCT Examiner noted that claims 1-28 were deemed to have industrial applicability. All references cited in the Report have been cited by Applicant in an Information Disclosure Statement filed with this application.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 05581-00145-US.

Respectfully submitted,

By   
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## PATENT COOPERATION TREATY

## PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 2003/N005WO	FOR FURTHER ACTION		Sec item 4 below
International application No. PCT/EP2004/011446	International filing date (day/month/year) 13 October 2004 (13.10.2004)	Priority date (day/month/year) 16 October 2003 (16.10.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant TREFAN GERMANY GMBH & CO. KG			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I    | Basis of the report   |
| <input checked="" type="checkbox"/> Box No. II   | Priority  |
| <input type="checkbox"/> Box No. III             | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV              | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> Box No. VI   | Certain documents cited   |
| <input checked="" type="checkbox"/> Box No. VII  | Certain defects in the international application  |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 740 14 35	Date of issuance of this report 18 April 2006 (18.04.2006)
	Authorized officer  Agnes Wittmann-Regis Telephone No. +41 22 338 89 70

Form PCT/IB/373 (January 2004)

## PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 26 JAN 2005

WIPO

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To:

see form PCT/ISA/220

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY  
(PCT Rule 43bis.1)Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)Applicant's or agent's file reference  
see form PCT/ISA/220FOR FURTHER ACTION  
See paragraph 2 belowInternational application No.  
PCT/EP2004/011446International filing date (day/month/year)  
13.10.2004Priority date (day/month/year)  
16.10.2003International Patent Classification (IPC) or both national classification and IPC  
C08L23/10, C08J5/18, B32B27/32, C09J7/02Applicant  
TREFAN GERMANY GMBH & CO. KG

## 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 86.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

## 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2  
NL-2280 HV Rijswijk - Pays Bas  
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl  
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Authorized Officer

Clemente Garcia, R

Telephone No. +31 70 340-2242



**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**International application No.  
PCT/EP2004/011446

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**Box No. I Basis of the opinion**

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1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

 International application No.  
PCT/EP2004/011446

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**Box No. II Priority**


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 1. ☐ The following document has not been furnished:

☐ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

 2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

 3. ☒ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

4. Additional observations, if necessary:

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**


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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-28
Inventive step (IS)	Yes: Claims	
	No: Claims	1-28
Industrial applicability (IA)	Yes: Claims	1-28
	No: Claims	

2. Citations and explanations

see separate sheet

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**Box No. VI Certain documents cited**


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1. Certain published documents (Rules 43bis.1 and 70.10)

and/or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2004/011446

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

see separate sheet

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/011446**Item V****1. The following documents will be cited:**

D1: EP-A-0 757 069

D2: US-A-6,489,019

D3: US-A-5,594,070

**2. Novelty; Art. 33.2 PCT**

2.1. D1 discloses films comprising: A) a propylene homopolymer and B) a heterophasic propylene copolymer as claimed. The heterophasic copolymer has the properties of claims 6 to 13 (see claim 3) and it is present in the blend in amounts as claimed (see table 2, example 2). The components are mixed. The PP has insolubles in xylene of greater than 94% and a MFR of 0.5 to 50 dg/min (page 2, lines 20-22). Claims 1-19 are not novel.

2.2. D2 relates to multilayer films comprising a bottom layer comprising: A) isotactic PP homopolymer and B) a first heterophasic propylene copolymer comprising crystalline PP and E/P rubber and C) a second heterophasic propylene copolymer comprising PP homopolymer and E/P rubber. The bottom layer can contain TiO<sub>2</sub> and calcium stearate. The top layer can contain nucleating agent (see table 1 and col. 23, lines 32-60 and example 2). Claims 1, 3, 6-25 are not novel.

2.3. D3 discloses labels made of a blend of PP homopolymer and an E/P block copolymer. The PP has a crystallinity of more than 50% and a MFR of 1.0 to 30 dg/min (see claims and col. 6, lines 13-23). The block copolymer comprises a crystalline PP homopolymer fraction and a polyethylene fraction. It has a content of 10-50 wt% of ethylene and a MFR of 0.5 to 5.0 dg/min. Cast films are also prepared with the composition (see col 19, line 4 and col. 20 lines 14 and 16). Claims 1-5, 8, 9, 14-19, 26-28 are not novel. The attention of the applicant is drawn to the fact that the term "heterophasic" has not a well recognised meaning and therefore, any copolymer of propylene that contains different phases falls into the meaning of heterophasic (see item VIII).

**3. Inventive step; Art. 33.3 PCT**

Claims that are not novel cannot involve an inventive step. It is already known from D1

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/011446

and D2 that compositions comprising a propylene homopolymer and a heterophasic propylene copolymer are suitable for films and from D3 that these films are suitable to make labels. Therefore, there is no inventive step involved in the subject-matter of the present claims.

**Item VI**

The document WO-A-03/093004 has a priority date of 01.05.2002 and was published on 13.11.2003. It discloses cast films and multilayer films for fabricating labels comprising: A) a PP isotactic homopolymer having m-pentad greater than 85% and B) a heterophasic propylene copolymer. The core layer comprises, additionally, a nucleating agent. The heterophasic copolymer is described in examples 2 and 3 as BASELL 8523 (see claims).

**Item VII**

The documents D1, D2 and D3 are not cited in the description (Rule 5.1 (a) (II) PCT).

**Item VIII; Art. 6 PCT**

1. Claim 1 is not clear. The term "heterophasic" is not a generally accepted term and as such does not define a specific polymer. Unless the technical features of the copolymer are included in claim 1 the term "heterophasic" is considered as a copolymer of propylene.
2. The measuring method of the melt index is not included in the claims (claims 4, 9). This renders the claims unclear.
3. Claims 5 and 7 do not contain that the measurement of the solubles in xylene is using "boiling" xylene. The absence of the temperature of the xylene renders the claims unclear.
4. The value "80" in claim 18 needs support in the description.
5. Claims 27 and 28 describe the invention by the result to be achieved "is formed by injection moulding/blow moulding". Since the container could not possibly be distinguished due to its manufacturing method, both claims have the same scope.